



GOLDWIN SMITH

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GOLDWIN SMITH, D.C.L., eminent English historian, essayist, and publicist, was born at Reading, England, Aug. 13, 1823. He was educated at Eton and at Oxford; took his degree of B.A. at Magdalen College, Oxford, in 1845; became Fellow and tutor, and was called to the Bar in 1850, but has never practiced. In 1856, he was appointed regius professor of modern history at Oxford. In 1868, he came to the United States, and for a time filled the chair of professor of constitutional history at Cornell University, Ithaca, N. Y. In 1871, he went to reside in Toronto, where he married and has since lived. Here he founded "The Canadian Monthly," "The Nation," "The Week," and "The Bystander," and has written largely to the magazines and reviews upon social and political topics. In politics he is a Liberal. Among his works are: "The Study of History," delivered at Oxford; "Irish History and Irish Character"; "Three English Statesmen" (Pym, Cromwell, and Pitt); "Lectures and Essays"; "A Moral Crusader"; "William Cowper"; "Life of Jane Austen"; "Canada and the Canadian Question"; "The United States, 1492-1871"; "The United Kingdom," a political history; "Bay Leaves: Translations from the Latin Poets"; "Essays on Questions of the Day"; "Oxford and her Colleges," and "Guesses at the Riddle of Existence." He is known as a profound scholar and a writer of great brilliance and distinction.

THE EVOLUTION OF THE DOMINION

IN Great Britain Liberalism was now in the ascendant and had carried parliamentary reform. As its envoy, and in its mantle, Lord Durham, the son-in-law of Lord Grey, the Radical aristocrat, the draftsman of the Reform Bill, came out as governor and high commissioner to report on the disease and prescribe the remedy. He overrated his position and his authority, moved about, Radical though he was, in regal state, assumed the power of banishing rebels without process of law, fell into the clutches of Brougham, with whom he was at feud, was censured and resigned. But he had brought with him Charles Buller, an expert in colonial questions, with the help of whose pen and that of Gobbon Wakefield, he framed a report which by its great ability and momentous effects forms an epoch in colonial history.

The Durham report recommends the union of the two

Provinces and the concession of responsible government, that is, of a government like the British cabinet, virtually designated by the representatives of the people and holding office by the title of their confidence. "To conduct their government," says Durham of the Canadian people, "harmoniously, in accordance with its established principles, is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way, than by administering the government on those principles which have been found perfectly efficacious in Great Britain.

"I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these colonies require the protection of prerogatives, which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence." What Durham meant by his saving words about the prerogative is not clear; nor has he explained how supreme power could be given to the colonial Parliament without taking away prerogative from the Crown. No effect, at all events, has ever been given to those words.

"We can venture," said the Tory periodical of that day in a notice of the report, "to answer, that every uncontradicted assertion of that volume will be made the excuse of future rebellions, every unquestioned principle will be hereafter perverted into a gospel of treason, and if that rank and infectious report does not receive the high, marked, and energetic discountenance and indignation of the imperial Crown and Parliament, British America is lost."

If resignation of authority is loss of dominion, the prediction of the writer in the "Quarterly" that British America would be lost, can hardly be said, from the Tory point of view, to have proved substantially unfounded.

The avowed object of union was the extinction of French nationality, which the authors of the report hoped would be brought about without violence by the political subjection of the weaker element to the influence of the stronger.

"I entertain," says Durham, "no doubts as to the national character which must be given to Lower Canada; it must be that of the British Empire; that of the majority of the population of British America; that of the great race which must, in the lapse of no long period of time, be predominant over the whole North American continent. Without effecting the change so rapidly or so roughly as to shock the feelings and trample on the welfare of the existing generation, it must henceforth be the first and steady purpose of the British government to establish an English population, with English laws and language, in this Province, and to trust its government to none but a decidedly English legislature."

Union was accepted in Upper Canada. On the French Province, by which it would certainly have been rejected, it was imposed, the constitution there having been suspended. For the united Provinces the constitution was in form the same as it had been for each of the Provinces separately, with the governor and his executive council, a legislative council appointed by the governor and a legislative assembly elected by the people; but with "responsible government," the understanding henceforth being in Canada as in Great Britain that the governor should accept as the members of his executive council and the framers of his policy the leaders of the majority in Parliament. The upper House was after-

ward made, like the lower, elective with the constituencies wider than those for the lower House. The same number of members in the legislative assembly was assigned to each of the two Provinces, though the population of Quebec was at this time far the larger of the two.

The constitution thus granted to the colony was in reality far more democratic than that of the mother country, where, besides a court actually present and a hereditary upper House, there were the influences of a great land-owning gentry and other social forces of a conservative kind, as well as deep-seated tradition, to control the political action of the people.

Not without a pang or without a struggle did the colonial office or the governors finally acquiesce in responsible government and the virtual independence of the colony. Poulett Thomson, afterward Lord Sydenham, sent out as governor by the Melbourne ministry, showed some inclination to revert to the old paths, shape his own policy, and hold himself responsible to the colonial office rather than to the Canadian people; but he was a shrewd politician and took care to steer clear of rocks. His successor, Bagot, though a Conservative and appointed by a Conservative government, surprised everybody by discreet and somewhat epicurean pliancy to the exigencies of his political position. He reigned in peace.

But Metcalfe, who followed him, had been trained in the despotic government of India. Backed by the Conservative government which had sent him out, he made strenuous efforts to recover something of the old power of a governor, to shape his own course, and make his appointments himself, not at the dictation of responsible ministers. The result was a furious storm. Fiery invectives were interchanged in

Parliament and in the press. At elections stones and brickbats flew. Canada was for several months without a government. The fatal illness of the governor terminated the strife.

Lord Elgin, when he became governor, heartily embraced the principle of responsible government, and upon the demise of the ministry sent at once for the leader of the opposition. He flattered himself that he was able to do more under that system than he could have done if invested with personal authority. That he could have done a good deal under any system by his moral influence was most likely, for he was one of the most characteristic and best specimens of imperial statesmanship. But moral influence is not constitutional power. About the last relic of the political world before responsibility was Dominick Daly, who deemed it his duty to stay in office, any changes in the ministry and principles of government notwithstanding.

The other North American colonies, Nova Scotia, New Brunswick, and Prince Edward Island, went through a similar course of contest for supreme power between the governor with the council nominated by him and the elective assembly, ending in the same way. On them also the boon of responsible government was conferred. In the case of Prince Edward Island the political problem had been complicated by an agrarian struggle with the body of grantees among whom the crown in its feudal character of supreme land-owner, had parcelled out the island.

Liberalism now gained the upper hand in the united Canada and ultimately carried its various points. Exiled rebels returned. William Lyon Maekenzie himself was, in time, again elected to Parliament, and Rolph, another fugitive, was admitted to the government. The clergy re-

services were secularized, university education was made unsectarian, and religious equality became the law. The seigniories in the French Province were abolished, compensation being given to the lords.

The passions of the civil war were for a moment revived when an act was passed awarding compensation to those whose property had suffered in the suppression of the rebellion. This the Tories took to be payment of rebels. They dropped their loyalty, as Tories are apt to do when Liberals are in power, stoned the governor-general, Lord Elgin, who had assented to the bill, and burned the Parliament House at Montreal. But Lord Elgin, calmly wise, and well sustained at home, restored peace.

As an attempt to suppress the French nationality, union signally failed. The French, the mass of them at least, clung together more closely than ever, and the other race being split into factions, held the key of the political situation. They enforced the repeal of the clause in the Union act, making English the only official language. A candidate for the speakership was rejected on the ground of his ignorance of French. At most the French politicians became half Anglicized, as their successors do at present, for the purposes of the political field. It came to be recognized as a rule that government must have a majority of both sections. To the antagonism between English and French was added the strife between Orangeism, which had been imported into Canada, though rather in its political than in its religious character, and the Catholics, French or Irish.

The population of the British Province having now outgrown that of the French Province, agitation for representation by population commenced on the British side. There ensued a series of cabals, intrigues, and faction fights which

lasted for about a quarter of a century, all intelligible principles of difference being lost in the struggle for place, though one question after another was taken up as a counter in the game. The only available statesmanship was address in the management of party. In this John A. Macdonald was supreme, and gained the ascendancy which made him ruler of Canada for many years.

Durham, in his report, had spoken freely of the sad contrast between the wonderful prosperity of the United States and the comparative backwardness of Canada. The contrast was still more felt when, by England's adoption of free trade, Canada lost her privileges in the British market, while she was excluded from the market of her own continent. A petition signed by three hundred and twenty-five persons, including the chiefs of commerce, proposed among other remedies, "A friendly and peaceful separation from British connection, and a union upon equitable terms with the great North American Confederacy of Sovereign States."

To open a safety valve for this discontent, Lord Elgin went to Washington and negotiated a reciprocity treaty with the United States. The Democratic party, that is, the party of slavery, then dominant, would be ready enough to do whatever would prevent Canada from entering the union and turning the balance against slavery. At the same time that Canada lost her privilege in the British market, British privilege in the Canadian market was virtually given up, and the colony received fiscal independence.

Faction, cabal, intrigue, and antagonism between the British and the French Province ended in a political deadlock from which the leaders of parties, combining for the moment, agreed to escape by merging their quarrels in a confederation of all the British Provinces of North America. Into this con-

federation Upper or British Canada, now called Ontario, and French Canada, now called Quebec, came at once. New Brunswick came early and freely. Nova Scotia was drawn in by questionable means. Prince Edward Island came in later of her own accord. The vast Northwest was afterward purchased of the Hudson's Bay Company and added to the confederation after the American model as a set of Territories to be received, when peopled, as Provinces of the Dominion. British Columbia was ultimately incorporated by the construction of the Canadian Pacific Railway across the continent. Some of the authors of confederation would have preferred a legislative to a federal union. This was precluded by the jealous nationality of the French Province and its adherence to its own civil law.

Federation this process was called, but the form of polity comprised in the British North America act is not that of federation proper; it is that of a nation with a federal structure. There is a wide and important difference between the two. In federation proper, which has usually been the offspring of union for common defence, the several states remain sovereign. The federal government is formed of delegates from the several States. Its powers are confined to the objects of the bond, security from without and peace within; it has the power of requisition only, not of taxation; nor has it any general legislative powers.

The American colonies during their struggle for independence were a federation proper; having afterward adopted their constitution, they became a nation with a federal structure; if any doubt remained upon that point it was dispelled by the war of secession. The political parties are national; they extend into State politics, and there has been a general tendency of the national to prevail over the federal element.

In the case of Canadian confederation the national element was from the first stronger than the federal in this respect, that the residuary power which the American constitution leaves in the States was by the Canadian constitution assigned to the Dominion.

On the other hand, the geographical relations of the Canadian Provinces, which are stretched in broken line across the continent, and separated from each other by great spaces or barriers of nature, so that there is not much natural trade or interchange of population, are a bar to the ascendancy of the national over the federal element. Provinces send their delegations to Ottawa charged with provincial interests, especially with reference to the outlay on public works; and it is necessary to have thirteen members in the cabinet in order to give each Province its share, while a cabinet, or to speak more properly, an administrative council of eight suffices for the population, fourteen times larger, of the United States. Political parties, however, extend over all the Provinces and generally into Provincial politics, though in the remoter Provinces, with a large element, and in British Columbia with a predominance of local objects. On the two old Canadas, now Ontario and Quebec, but chiefly on Ontario, have lain the stress and burden of confederation. Ontario has paid more than sixty per cent of the taxes.

The imperial element in the Canadian constitution is represented, besides the appointment of the governor-general and the commander of the militia, by an imperial veto on Canadian legislation, which however is becoming almost nominal; the appellate jurisdiction of the privy council, which has been partly pared away; and the subjection of Canadian relations with foreign countries to the authority of the imperial foreign office, which again is gradually giving way to Canadian

autonomy, though with British responsibility and under the protection of the British army and navy; a colony having no means of asserting its claims by war.

Nor must we forget the influence of imperial titles and honors which on colonial politicians is great. The Canadian constitution, moreover, though framed in the main by Canadian politicians, is embodied in an imperial act of Parliament, subject to repeal or amendment only by the same authority by which it was passed. A community living under a constitution imposed by external authority and without the power of peace or war, can hardly be said yet to have attained the status of a nation.

The monarchical element consists of the governor-general, representing the British sovereign, and equally divested of personal power, with lieutenant-governors of Provinces appointed nominally by the governor-general, really by the prime minister, and figure-heads like their chief, the places being, in fact, retiring pensions for veteran politicians.

There is an upper House, in the shape of a Senate, the members of which are appointed for life, ostensibly by the Crown, really by the leader of the party in power. If the appointments were really in the Crown there might be some opening for the general eminence of which a model Senate would be the seat. As it is, these appointments merely form an addition to the patronage fund of party. The illusory name of the "Crown" reconciles people to the exercise, by party leaders, of powers which might otherwise be withheld. A certain number of places in the Senate is assigned to each Province; so that whatever power the Senate has may be reckoned among the federal elements of the constitution.

The Canadian constitution, with its cabinet of ministers sitting in Parliament and controlling legislation, its preroga-

tive exercised formally by the Crown, really by the prime minister, of calling and dissolving Parliament, adapts itself to party government, for which the American constitution, with its election of a President for a stated term, and its separation of the administrative council, miscalled a cabinet, from the legislature, is a manifest misfit. Party takes its usual form and proceeds by its usual methods, though the necessity of holding together Provinces geographically and commercially disunited, so as to form a basis for the government, induces a special resort to the influence of federal subsidies for local works.

The exact relation of a colony on the footing on which Canada now is to the imperial country it would be difficult to define, though definition may presently be needful if misunderstanding is to be escaped. The Crown, by the British North America act, renounces its supreme ownership of the land by handing over the lands to the Provinces. The personal fealty of the colonists to the sovereign of Great Britain remains.